

**KANSAS STATE BOARD OF MORTUARY ARTS  
700 SW JACKSON, SUITE #904  
TOPEKA, KANSAS 66603-3733  
Wednesday-Thursday, October 10-11, 2012**

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**FORMAT OF MINUTES:**

On each motion there appear the names of two board members in a parenthesis. The first named made the motion, and the second named made the second. Ayes and Nays will be recorded at a voter's request.

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**Wednesday, October 10, 2012:**

- I. The Investigative Committee (IC) of the board met to discuss and make recommendations to the Board on open complaints. Those in attendance included Fred G. Holroyd, Topeka, Licensee; Theresa M. Schwartz, Lawrence, Consumer; with administrative staff assistance provided by Assistant Attorney General Steve Phillips and Executive Secretary, Mack Smith. Recommendations and Actions from this committee meeting are contained within these minutes.

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**Thursday, October 11, 2012:**

- II. The regularly scheduled meeting of the Kansas State Board of Mortuary Arts (KSBMA) was called to order by President Fred Holroyd.

President Holroyd administered the Oath of Office to newly appointed board members William C. "Bill" Cozine, Wichita, Licensee, and Randy Duncan, Brookville, Consumer. Mr. Cozine and Mr. Duncan were appointed by Governor Brownback and were welcomed to the board by all those in attendance. The board expressed their thanks for the twenty-one (21) years served by Barry W. Bedene, Licensee, Arma, and for the twelve years served by Charles W. "Charlie" Smith, Consumer, Shawnee.

**Roll call** by Executive Secretary Mack Smith found the following board members in attendance: President Fred G. Holroyd, Topeka, Licensee; William L. "Bill" Cozine, Wichita, Licensee; Randy Duncan, Brookville, Consumer; Steven G. "Steve" Melby, Mankato, Licensee; and Theresa M. Schwartz, Lawrence, Consumer. The board's Executive Secretary Mack Smith was also in attendance. Assistant Attorney General Lisa Mendoza had a scheduling conflict and will attempt to join the meeting a little later in the morning.

(Schwartz-Duncan) To nominate Steve Melby as the KSBMA Vice-President.  
Carried.

President Holroyd appointed Mr. Cozine and Mr. Duncan to the *Hearing Committee*.

Mr. Cozine was appointed to the *Continuing Education Committee*.

Due to a clerical error by the Governor's Appointment Staff, the reappointment of Board Member Bedene mentioned in the July 2012 Board Minutes was rescinded.

The board noted this meeting's tentative agenda that is displayed on the agency's website at: <http://www.kansas.gov/ksbma/> under the heading of *Agency Information and Tentative Board Agenda*.

(Melby-Duncan) To approve a **final agenda** for this meeting. Carried.

The board decided to eat lunch at Classic Bean.

A letter written by former board member Barry Bedene was read. Mr. Bedene expressed that it was an honor to serve on the board for the past 21 years and asked that his letter be recorded on record in the board minutes.

(Duncan-Cozine) To record Mr. Bedene's letter as part of the minutes of this meeting. Carried.

(Schwartz-Melby) To adopt the **July 11-12, 2012 regularly scheduled board meeting minutes** as amended. Carried. These minutes will be signed by President Fred Holroyd and Executive Secretary Mack Smith, then displayed on the board's website.

The board reviewed results of the written **funeral directors' examination** administered on **July 12, 2012** noting that **75% (eight of twelve applicants)** were **successful**. Three of the four individuals who were unsuccessful with the July 2012 examination are scheduled to retake the examination later this afternoon.

The board reviewed results of the written **assistant funeral directors' examination** administered in **August, September and October 2012** noting that **62.5% (five of eight applicants)** were successful. Since the law requiring examination for assistant funeral directors was enacted in 2008, **75.2% (91 of 121 applicants)** have successfully passed the written examination.

The board reviewed the '**List of Licensure Applicants**' scheduled to interview with the board at this meeting, noting the following applicants scheduled to meet with the board include two (2) embalmer-funeral director applicants, one (1) embalmer applicant, and three (3) reciprocal embalmer-funeral director applicants. Eight (8) applicants, including three (3) individuals retaking the test, are scheduled to be administered the written funeral directors' examination in conjunction with this meeting. One (1) reciprocal embalmer-funeral director applicant from the July meeting did not apply to retake the funeral directors'

examination nor did he pay the initial embalmer licensure fee for a license granted by the board at the July meeting.

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- III. The board **reviewed individual applications** for embalmer and funeral director licensure along with the executive secretary's summations of the applicant's apprentice and supervising licensee progress reports. Applicants for licensure will be interviewed later in this meeting. All funeral director applicants will be administered the written funeral directors' examination by Funeral Home/Crematory Inspector Francis Mills at 1:30 p.m. this afternoon in the Florentine Room of the Jayhawk Tower.

The board reviewed correspondence relating to third quarter progress reports of an apprentice embalmer and supervising embalmer from the July 12, 2012 meeting where the board advised both parties that more time needs to be utilized embalming. Mr. Smith has visited with both the apprentice and supervising licensee of the concerns of the board. Fourth quarter reports submitted September 15, 2012 show a marked improvement in the areas of concern previously expressed by the board.

The board reviewed correspondence relating to third quarter progress reports of an apprentice embalmer and supervising embalmer where both parties were notified that more time needs to be utilized embalming. The apprentice is also serving a funeral directing apprenticeship at a different location, and the supervising funeral director was also notified of the board's concerns. Fourth quarter reports submitted September 15, 2012 show a marked improvement in the areas of concern previously expressed by the board.

The board reviewed the first quarter progress reports of an apprentice embalmer-funeral director with concerns expressed by the supervising licensee. Following a review and discussion of the reports, the board directed Executive Secretary Smith to compose a letter advising the supervising licensee of her responsibility when supervising an apprentice and to write a letter of encouragement to the apprentice encouraging her to visit with her supervising licensee when help is needed during the apprenticeship.

All quarterly progress reports of embalmer/funeral director apprentices and supervising licensees were summarized by the executive secretary with copies of the individual reports available for board review.

Copies of all related correspondence from the July 2012 meeting were reviewed.

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- IV. **Legal Discussion: Individual Complaints/Investigations are listed numerically. The board did not necessarily take action in the order listed below:**

**Complaints and legal concerns:**

The board reviewed correspondence involving complaints resulting from actions taken and recommendations made at the meeting of July 12, 2012.

**Information on open complaints:**

The Board's Investigative Committee, which is composed of Board Members Holroyd and Schwartz met with Litigation Attorney Steve Phillips and KSBMA Executive Secretary Smith on Wednesday, October 10, 2012 at 4:00 p.m. to discuss and make recommendations on open complaints. Investigative Committee recommendations are included with the following individual complaints.

**#11-31**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on a Diversion Agreement/Amended Complaint and Restitution Order entered into by the Office of the Kansas Attorney General/Woodson County District Court with a former licensee, to accept the surrender of the embalmer and funeral director licenses of this individual along with the agreement that the individual will not work in the funeral industry in any capacity during the 60-month time frame of the agreement and to close the file. Carried.

**#11-35**—No action necessary at this time.

**#12-07**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving determination of the legal next of kin and final disposition.

**#12-08**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving cremation and the possibility of unlicensed activity.

**#12-12**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving a diversion agreement with no convictions noted.

**#12-13**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving failure of a funeral home to provide a copy of the initial Statement of Funeral Goods and Services Selected to the family at the time of at-need funeral arrangements.

**#12-14**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving cremation.

**#12-15**—(Melby-Cozine) After reviewing all correspondence to close the file. Carried. No violations of laws regulated by the KSBMA were noted on this complaint involving at-need funeral arrangements and cremation.

**#12-16**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on information provided, there were no violations of laws regulated by the KSBMA. Carried. The complaint involves unprofessional conduct and legal next-of-kin concerns.

**#12-17**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on information provided, there were no violations of laws

regulated by the KSBMA and close the file. Carried. The complaint involves prefinanced funeral agreements.

**#12-18**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee to advise the licensee that better attention to detail would have avoided the problem with the delay of the certified copies of the death certificate being provided to the family as well as the problems with the music selections during the funeral service; and that while at this time there is insufficient information regarding the possibility of being unfit or unable to practice the duties of funeral directing, the licensee should be aware that committing such an act is grounds for board action being taken against his license. Carried. The complaint involves unprofessional conduct and failing to provide certified death certificates in a timely manner.

**#12-19**—No action necessary at this time.

**#12-20**—No action necessary at this time.

**#12-21**—No action necessary at this time.

**#12-22**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on information provided there are no violations of laws regulated by the KSBMA. Carried. The KSBMA letter to the consumer will explain that a 100% refund for the cost of prepaid monies paid for cremation (with no interest since the prefinanced agreement was with a cemetery) will be provided by the cemetery when proof has been provided that cremation has occurred in the form such as a bill from the crematory or funeral home that provided cremation. Carried. The complaint involves concerns with the value of a prefinanced cemetery agreement for the act of cremation at the time of death.

**#12-23**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on information provided, there were no violations of laws regulated by the KSBMA and to close the file. Carried. The complaint involves misleading advertising based on information on the funeral home's web site.

**#12-24**—(Holroyd-Schwartz) To adopt the recommendations of the Investigative Committee that based on information provided, there were no violations of laws regulated by the KSBMA and close the file. Carried. The complaint involves an applicant for licensure and an administrative conviction.

**#12-25**—No action necessary at this time.

Assistant Attorney General Lisa Mendoza entered the meeting.

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**V. Board Business:**

- 1) (Duncan-Schwartz) To approve the **quarterly lists of continuing education (CE.)** Carried. Three lists containing *on-site programs, correspondence/home study programs* and *programs pertaining to*

*cremation*. These lists are regularly updated and are available on the board's web site.

- 2) (Melby-Schwartz) To approve the list of **lapsed licenses** as amended. Carried. The list is a part of these minutes and contains the names of individuals whose license renewals are past due for longer than six months, who have requested that their licenses be dropped, who have died or in the case of assistant funeral directors, who are no longer employed at a funeral home under the supervision of a funeral director. The list reviewed and approved by the Board included seven (7) assistant funeral director licenses, three (3) crematory operator licenses, five (5) embalmer licenses and eight (8) funeral director licenses. This information is provided for a number of reasons, including use by the Office of Vital Statistics (OVS) for purposes of licensure verification used on death certificates.
- 3) The board reviewed the list of **automatically suspended licenses**. This list contains the names of individuals who have not paid their license renewal fees by the appropriate due date and have not requested that their licenses be dropped. Once a license is six months in arrears, it is then automatically placed on the lapsed license list for purposes of being dropped. This list included thirteen (13) embalmer licenses and eleven (11) funeral director renewals due through September 30, 2012. Six (6) funeral homes have closed during this time frame although five (5) have either reopened under new ownership or are in the process of applying for licensure to reopen.
- 4) (Schwartz-Melby) To approve the **FY 2013 first quarter** (July 1-September 30, 2012) **Report** for KSBMA Funeral Home-Crematory Inspector Francis F. Mills. Carried. 174 inspections were conducted during the first quarter of FY 2013 with nine (9) violations noted. 7,639 miles was traveled involving sixty-three (63) counties during this time frame.
- 5) Reviewed the **current roster of apprentice embalmers and funeral directors**. A total of twenty-nine (29) apprentices are currently registered with the board at this time, including: nineteen (19) embalmer-funeral directors, two (2) embalmers and eight (8) funeral directors.
- 6) Discussion of **news articles** relating to the funeral profession that has been provided to board members and legal counsel for their review including one article on a Legislative Post Audit Committee's audit of the Veterinary Board—a three full-time person regulatory agency.
- 7) A reminder of the **2013 Board meeting dates**: January 10, April 11, July 11 and October 10.
- 8) The board **signed travel vouchers**.
- 9) A new **office lease** was finalized at a reduced rate from the previous lease. The new lease began September 1, 2012 and will expire in two years on August 31, 2014—with an additional one (1) year option.
- 10) President Holroyd and Executive Secretary Smith attended the **Kansas Boards and Commissions Seminar** conducted by the Governor's Office for board presidents and executive directors on September 26, 2012. The seminar was titled: "*Ethics=Trust*."
- 12) The Board reviewed the document containing updates and recent history

## of Board Member Appointments.

### VI. Executive Secretary's Report:

- 1) **Budget/Audit Information–**
  - a) A letter from the Office of Management Analysis and Standards Office relating to an **FY 2011 Audit** of the KSBMA was reviewed. No negative findings were noted with the support documentation provided by the KSBMA staff. The audit was noted as commendable.
  - b) The Board reviewed the portion of the FY 2012 Governor's Budget Comparison Report containing information related to the KSBMA.
  - c) **FY 2012** (July 1, 2011 through June 30, 2012): The approved budget was \$291,381. The ending balance was \$18,222 making expenditures approximately 6% under budget—which includes the cost of a replacement vehicle. A **replacement automobile** has been ordered with no arrival date known at this time.
  - d) **FY 2013** (July 1, 2012 through June 30, 2013) The Board's expenditure limit is \$281,894 which is a reduction of \$9,487 from FY 2012. The KSBMA did not make a request for additional funds or enhancements with the September 15, 2012 filing deadline.
  - e) Budget requests for **FY 2014** (July 1, 2013 through June 30, 2014) and **FY 2015** (July 1, 2014 through June 30, 2015) were submitted by the deadline of September 15, 2012.
- 2) Updated information regarding the **International Conference of Funeral Service Examining Boards (ICFSEB)**.
- 3) Updated information on the **Council on Licensure, Enforcement and Regulation (CLEAR)** was discussed.
- 4) Updated information regarding the **Federation of Associations of Regulatory Boards (FARB)**.
  - a) *2013 Annual Forum*
- 5) Updated information on the **Kansas Funeral Directors and Embalmers Association (KFDA)**.
  - a) **2012 KFDA Fall District Meetings**—Executive Secretary Smith presented a Board Update at five of the six meetings.
- 6) Information relating to the **board's web site**, <http://www.kansas.gov/ksbma/>, was discussed.
- 7) The board discussed information pertaining to the **National Funeral Directors Association (NFDA)**.
- 8) Updated information from the **Federal Trade Commission (FTC)** regarding the **Funeral Rule** was discussed.
- 9) Updated information from the **American Board of Funeral Service Education (ABFSE)** was discussed.
- 10) Updated information from the **Cremation Society of North America (CANA)** was discussed.
- 11) Updated information from the **Funeral Ethics Association (FEA)** was discussed.
- 12) Updated information from the **Funeral Consumer Alliance (FCA)** was discussed.
- 13) The board reviewed the Fall 2012 FCA Report from the **Funeral Consumer's Alliance of Greater Kansas City**.
- 14) Updated information from the **Funeral Ethics Organization (FEO)** was discussed.

- 15) The Board discussed the July 2012 edition of the Embalmers Quarterly Journal from the **American Society of Embalmers (ASE.)**
- 16) Updated information from the **Kansas Department of Health and Environment (KDHE), Office of Vital Statistics (OVS)** was discussed.
- 17) Updated information from the **Kansas City Kansas Community College (KCKCC) Mortuary Science Program.**
- 18) Updated information from the **Kansas Mass Fatality Planning Task Force** was discussed.
- 19) Executive Secretary Smith continues to attend the **Administrative Services Forum** meetings with Department of Administration (DOA) Secretary Dennis Taylor whenever possible. Meetings are held twice a month and contain agendas covering a wide range of subjects.
- 20) Executive Secretary Smith told the board that both staff positions were good team players and deserve a lot of credit for any agency success.

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VII. The board met with *Applicants for Licensure* to discuss their applications and apprentices:

**Embalmer Applicant: Ms. Kelsey R. Harrison**

(Duncan-Schwartz) To grant an embalmer license upon payment of an initial license fee of \$161.00. Carried. Ms. Harrison completed her apprenticeship on October 3, 2012 at D.W. Newcomers Sons Overland Park Chapel. Once issued, the renewal date for the license would be August 31, 2014. Ms. Harrison attended Longview Community College in Kansas City, Missouri and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Embalmer-Funeral Director Applicant: Ms. Alena E. Loyd**

(Schwartz-Duncan) To grant an embalmer license upon completion of apprenticeship and payment of an initial license fee of \$182.00 and to grant a funeral director license upon completion of apprenticeship, passing of the written funeral directors' examination, which will be administered later today and payment of an initial license fee of \$234.00. Carried. With continuous employment, Ms. Loyd is scheduled to complete her funeral directors' apprenticeship on October 28, 2012 at Chapel Hill-Butler Funeral Home in Kansas City, Kansas and her embalming apprenticeship on November 23, 2012 at Mount Moriah and Freeman Funeral Home in Kansas City, Missouri. Once issued, the renewal date for the licenses would be December 31, 2014. Ms. Loyd attended Colby Community College in Colby, Kansas, Johnson County Community College in Overland Park, Kansas, the University of Kansas in Lawrence, Kansas, Neosho County Community College in Chanute, Kansas and earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Embalmer-Funeral Director Applicant: Ms. Nikki L. Powers**

(Duncan-Melby) To grant an embalmer license upon payment of an initial license fee of \$49.00 and to grant a funeral director license upon payment of an initial license fee of \$14.00 and passing of the written funeral directors' examination, which will be administered later today. Carried. Ms. Powers completed her apprenticeships on September 30, 2012 at Chapel Oaks Funeral Home in Oskaloosa, Kansas. Once issued, the renewal date for the licenses would be



April 30, 2013. Ms. Powers earned an Associate in Applied Science Degree in Mortuary Science at Kansas City Kansas Community College in Kansas City, Kansas.

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**Reciprocal (Oklahoma) Embalmer-Funeral Director Applicant: Mr. Robert C. Gardner, Jr.**

(Cozine-Duncan) To grant a reciprocal embalmer license upon payment of a \$154.00 initial license fee and to grant a funeral director license upon payment of an initial license fee of \$44.00 and passing the written funeral directors' examination, which will be administered later today. Carried. The renewal date for the licenses would be July 31, 2014. Mr. Gardner was granted Oklahoma embalmer and funeral director licenses on July 9, 1998. He attended Cameron University in Lawton, Oklahoma, the University of Oklahoma in Norman, Oklahoma and earned a Bachelor of Science Degree in Funeral Science at the University of Central Oklahoma in Edmond, Oklahoma. He has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards and passed the Kansas Assistant Funeral Directors' Examination.

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**Reciprocal (Florida) Embalmer-Funeral Director Applicant: Mr. Thomas G. "Tom" Corn**

(Schwartz-Cozine) To grant a reciprocal embalmer license upon payment of a \$126.00 initial license fee and to grant a funeral director license upon payment of an initial license fee of \$171.00 and passing the written funeral directors' examination, which will be administered later today. Carried. The renewal date for the licenses would be March 31, 2014. Mr. Corn was granted Florida embalmer and funeral director licenses on August 1, 1980. He attended Pasco-Hernando Community College in Spring Hill, Florida and earned an Associate in Science Degree in Funeral Services at Miami Dade College in Miami, Florida. He has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards.

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**Reciprocal (Texas) Embalmer-Funeral Director Applicant: Mr. Sean P. Peschel**

(Duncan-Schwartz) To grant a reciprocal embalmer license upon payment of a \$49.00 initial license fee and to grant a funeral director license upon payment of an initial license fee of \$66.50 and passing the written funeral directors' examination, which will be administered later today. Carried. The renewal date for the licenses would be April 30, 2013. Mr. Peschel was granted Texas embalmer and funeral director licenses on October 27, 2010. He attended Northwestern State University in Natchitoches, Louisiana and earned an Associate in Applied Science Degree in Funeral Science at the Commonwealth Institute of Funeral Service in Houston, Texas. He has passed the National Board Examination (NBE) administered by International Conference of Funeral Service Examining Boards and is employed at Potts Chapel in Independence, Kansas. He has also passed the Kansas Assistant Funeral Directors' Examination.

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**VIII. New/Old/Remaining Business/Adjournment**

(Cozine-Melby) To adjourn—subject to recall by the president, vice president or

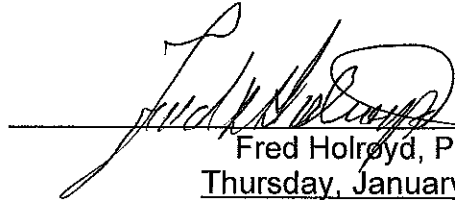
executive secretary. Carried. The date of the next regularly scheduled board meeting is Thursday, January 10, 2013.


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At approximately 1:30 p.m. Executive Secretary Smith read instructions to the funeral directors' examinee applicants prior to the administration of the funeral directors' examination which was proctored by Inspector Francis Mills in the Florentine Room of the Jayhawk Tower. The results of that examination are a part of these minutes.

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Respectfully submitted:

  
Fred Holroyd, President  
Thursday, January 10, 2013  
(Date)

  
Mack Smith, Executive Secretary  
Thursday, January 10, 2013  
(Date)

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